IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CWP NO. 10046 OF 2002

DATE OF DECISION: 22.03.2007

Jagjiwan Singh

…Petitioner

Versus

Punjab State Electricity Board and others

…Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR

HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. K.S. Dadwal, Advocate,
for the petitioner.

Mr. Ravi Sodhi, Advocate,
for the respondents.

JUDGMENT

M.M. KUMAR, J.

This petition filed under Article 226 of the Constitution prays for quashing instructions dated 25.8.2000 and 13.3.2002 (P-3 & P-7 respectively) as well as the order dated 15.11.2001 (P-6). A further prayer has been made seeking direction against the respondents to give compassionate appointment to the petitioner on the post of Clerk or any other suitable post as per his entitlement,

eligibility and qualification in view of instructions dated 5.2.1996 (P-2).

Brief facts of the case are that the mother of the petitioner, namely, Smt. Surinder Kaur was working as Upper Division Clerk in Urban Sub Division, Hoshiarpur. Due to severe disease her kidneys collapsed and even her eye-sight became very weak. She was referred to the Medical Board. On 3.11.2000, the mother of the petitioner was declared permanently incapacitated for service of any kind in the respondent Department, by the Medical Board, in consequence of known Diabetic and Severe Anaemiperiferal Neuropathy in lower limb with Ch. Renal failure (P-1). It is appropriate to mention here that her age at that time was 52 years. On the basis of the report of the Medical Board, the mother of the petitioner was given retirement w.e.f. 3.11.2000. Unfortunately, she expired on 2.3.2001 leaving behind her husband, who was in service; and two married children i.e. the petitioner and his sister, who were 28 and 25 years of age respectively.

Basing his claim on sub-clause (2) of clause 5 of the instructions dated 5.2.1996, issued by the Government of Punjab, Department of Personnel and Administrative Reforms (P-2), the petitioner, who claims himself to be the dependent of her mother, applied to respondent No. 3 for grant of appointment on compassionate ground (P-5). The aforementioned sub-clause (2) of clause 5 of the instructions dated 5.2.1996, reads as under:-

"5. For offering appointments on class-III and IV posts on compassionate grounds, following categories of persons may be considered:-

Sr. No.	Category of Persons
xxx	xxx xxx xxx xxx
(2)	A dependent member of the family of the deceased Government employee, or of a Government employee, who is retired from service, on medical grounds before attaining the age of 55 years in the case of Class-III employees and before attaining the age of 57 years in the case of Class-IV employee."

The aforementioned clause was, however, deleted vide subsequent instructions issued on 25.8.2000 (P-3). It has been claimed that the respondents have subsequently issued another circular dated 13.12.2000, clarifying the decision of the Government not to give appointment to the dependent of the employee. It has been stated that the cases of such officers/employees who have sought retirement or who have been retired on medical grounds and their retirement orders were issued before 25.8.2000, were to be considered for appointment as dependents on compassionate grounds (P-4). As noticed above, in the case of the mother of the petitioner, her retirement orders on medical grounds were passed w.e.f. 3.11.2000. Vide order dated 2.11.2001/15.11.2001, the respondent Board rejected the application of the petitioner (P-6). On 13.3.2002,

the respondent Punjab State Electricity Board issued a circular adopting the instructions dated 13.12.2000 issued by the Government of Punjab, Personnel Department, with the condition that the appointment were to be given on priority basis to the dependents of those employees, who had retired on medical grounds at the age of 50 years and not in the cases of those employees who retired at the age of 55/57 years (P-7). In these circumstances, the petitioner has approached this Court challenging aforementioned instructions dated 25.8.2000 and 13.3.2002 (P-3 & P-7) as well as the order dated 15.11.2001 (P-6).

After hearing learned counsel for the parties, we are of the considered view that there is no merit in the instant petition and the same is liable to be dismissed. It is an admitted position that the mother of the petitioner was retired at the age of 52 years w.e.f. 3.11.2000 on medical grounds. A perusal of application for compassionate appointment (P-5) shows that at the time of death of the mother of the petitioner, he was 28 years of age and married. Even his father was an employee. It is well settled that the compassionate appointment is not a mode of entry into service but it is only to help the surviving members of the family to overcome sudden financial crises created by the death of bread winner, as has been held by Hon'ble the Supreme Court in the cases of **Hindustan Aeronautics Ltd. v. A. Radhika Thirumalai, (1996) 3 SCC 394** and **National Hydro Electric Power Corpn. v. Nanak Chand, (2004) 12 SCC 487**. The prayer of the petitioner for quashing the instructions

dated 25.8.2000 and 13.3.2002 (P-3 & P-7) cannot be acceded to merely on the ground that his case is not covered in any of the aforementioned instructions except instructions dated 5.2.1996 (P-2), which have already been modified by issuance of subsequent instructions and are no more in existence. Even otherwise such instructions have to be read in the light of the judgments of the Supreme Court and such instructions are unlikely to create any legal right of binding nature warranting issuance of a direction. There is no merit in the petition.

Dismissed.

(M.M. KUMAR)
JUDGE

(RAJESH BINDAL)
JUDGE

March 22, 2007

Pkapoor